

AMENDED IN SENATE FEBRUARY 3, 2003

AMENDED IN SENATE JANUARY 30, 2003

CALIFORNIA LEGISLATURE—2003–04 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 10

Introduced by ~~Committee on Budget and Fiscal Review~~ *Senators
Sher and Scott*

January 27, 2003

An act to ~~amend Section 62.5 of the Labor Code, relating to workers' compensation~~ *add Section 52126.1 to, and to add Chapter 6.50 (commencing with Section 52129) to Part 28 of, the Education Code, relating to class size.*

LEGISLATIVE COUNSEL'S DIGEST

SB 10, as amended, ~~Committee on Budget and Fiscal Review~~ *Senator Sher. Workers' compensation Class Size Reduction Flexibility Alternative Program.*

Existing law establishes the Class Size Reduction Program in which participating school districts are provided funding for each class in which the class size is reduced to a ratio of 20 pupils to 1 teacher in kindergarten and any of grades 1 to 3, inclusive.

This bill would additionally establish the Class Size Reduction Flexibility Alternative Program in which participating school districts that certify that participating classes are taught by a fully and properly credentialed teacher, as specified, are provided funding for each class, in kindergarten and any of grades 1 to 3, inclusive, in which the annual average class size is 22 pupils to 1 teacher, provided that the schoolsite

annual average class size does not exceed a class size ratio of 20 pupils to 1 teacher.

This bill would require a school to elect whether to operate under the existing Class Size Reduction Program or under the new Class Size Reduction Flexibility Alternative Program and prohibits a school from receiving funding under both programs.

~~Existing law establishes the Worker's Compensation Administration Revolving Fund, which consists of General Fund appropriations and employer assessments levied based on payroll information. The Department of Industrial Relations is authorized to expend the money in the fund, upon appropriation by the Legislature, for the administration, with some exceptions of the worker's compensation program.~~

~~Existing law requires that 80% of these workers' compensation program costs be funded from General Fund appropriations and 20% of the costs from employer assessments.~~

~~This bill would require, instead, that 100% of these workers' compensation program costs be supported by employer assessments.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 62.5 of the Labor Code is amended to~~
2 ~~SECTION 1. Section 52126.1 is added to the Education Code,~~
3 ~~to read:~~

4 ~~52126.1. A school shall elect whether to receive funding~~
5 ~~under Sections 52126 or 52129.5 but may not claim funding~~
6 ~~pursuant to both Sections 52126 and 52129.5.~~

7 ~~SEC. 2. Chapter 6.50 (commencing with Section 52129) is~~
8 ~~added to Part 28 of the Education Code, to read:~~

9

10 ~~CHAPTER 6.50. CLASS SIZE REDUCTION FLEXIBILITY ALTERNATIVE~~
11 ~~PROGRAM~~

12

13 ~~52129. This act shall be known and may be cited as the Class~~
14 ~~Size Reduction Flexibility Alternative Program.~~

15 ~~52129.1. (a) Except as otherwise provided by Section~~
16 ~~52129.2, a school district that maintains kindergarten or any of~~
17 ~~grades 1 to 3, inclusive, may apply to the Superintendent of Public~~

Instruction for an apportionment to implement a class size reduction flexibility alternative program in any school in that district in kindergarten and any of grades 1 to 3, inclusive.

(b) An application submitted pursuant to this chapter shall identify both of the following:

(1) Each class that will participate in the Class Size Reduction Flexibility Alternative Program.

(2) For each class that will participate in the Class Size Reduction Flexibility Alternative Program, whether that class will operate under Option One or Option Two:

(A) (i) Option One: A school district shall provide a reduced class size for all pupils in each classroom for the full regular schoolday in each grade level for which funding is claimed. For the purposes of this chapter, “full regular schoolday” means a substantial majority of the instructional minutes per day, but shall permit limited periods of time during which pupils are brought together for a particular phase of education in groups that are larger than 22 pupils per certificated teacher. It is the intent of the Legislature that those limited periods of time be kept to a minimum and that instruction in reading and mathematics not be delivered during those limited periods of time. For the purposes of this subparagraph, “class” is defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).

(ii) The purpose of the Class Size Reduction Flexibility Alternative Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction at a schoolsite where there are not more than 20 pupils per class in the participating grade levels. Except as provided in subdivision (e), in order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Flexibility Alternative Program shall be maintained with an annual average class size of not more than 22 pupils for the instructional time that qualifies the class for funding pursuant to this chapter. Nothing in this chapter shall be construed to prohibit the class size from exceeding 22 pupils on any particular day, provided that the average class size of the individual class for the school year does not exceed 22.

1 (B) (i) Option Two: A school district shall provide a reduced
2 class size for all pupils in each classroom for at least one-half of
3 the instructional minutes offered per day in each grade level for
4 which funding is claimed. A school district selecting this option
5 shall primarily devote those instructional minutes to the subject
6 areas of reading and mathematics. For the purposes of this
7 subparagraph, “class” is defined in the same manner as provided
8 in the regulations adopted by the Superintendent of Public
9 Instruction prior to July 1, 1996, pursuant to Sections 41376 and
10 41378 (subdivision (a) of Section 15103 of Title 5 of the California
11 Code of Regulations).

12 (ii) The purpose of the Class Size Reduction Flexibility
13 Alternative Program is to ensure that children in public school in
14 kindergarten and grades 1 to 3, inclusive, receive instruction at a
15 schoolsite where there are not more than 20 pupils per classroom
16 in the participating grade levels. Except as provided in subdivision
17 (e), in order to qualify for funding pursuant to this chapter, each
18 class in the Class Size Reduction Flexibility Alternative Program
19 shall be maintained with an annual average class size of not more
20 than 22 pupils for the instructional time that qualifies the class for
21 funding pursuant to this chapter. Nothing in this chapter shall be
22 construed to prohibit the class size from exceeding 22 pupils on any
23 particular day, provided that the average class size of the
24 individual class for the school year does not exceed 22.

25 (c) A school district that intends to implement or continue to
26 implement a class size reduction flexibility alternative program
27 shall submit an application for funding pursuant to this chapter to
28 the Superintendent of Public Instruction not later than 90 days
29 after the annual Budget Act is chaptered, unless otherwise
30 specified in regulations adopted by the State Board of Education.

31 (d) Any school district that chooses to reduce class size through
32 the use of an early-late instructional program is ineligible to also
33 use Section 46205, relating to the computation of instructional
34 time for purposes of the Incentive for Longer Instructional Day
35 and Year, in any grade level for which class size reduction
36 flexibility alternative funding is received pursuant to this chapter;
37 provided, however, that any school district that operated under
38 Section 46205 prior to July 1, 1996, may receive class size
39 reduction flexibility alternative funding pursuant to Option One in

1 any grade level for which class size reduction flexibility alternative
2 funding would otherwise be received pursuant to Option One.

3 (e) (1) Notwithstanding any other provision of law, a school
4 district that maintains only one school serving pupils in
5 kindergarten and grades 1 to 3, inclusive, is eligible to receive
6 funding under this section on behalf of the school if there are no
7 more than two classes per participating grade level and the
8 average class size is no more than 20 pupils in each of the classes
9 participating in class size reduction at that schoolsite. For
10 purposes of this subdivision, average class size may be determined
11 by calculating the total number of pupils enrolled in all classes at
12 all grade levels in a school that will participate in the Class Size
13 Reduction Flexibility Alternative Program divided by the total
14 number of classes in the school. The ratio of pupils to teacher in
15 any class included in the average shall not exceed the 20 to 1
16 standard by more than two pupils.

17 (2) As a condition of applying for funding under this
18 subdivision, a governing board shall make a public declaration,
19 either by adopting a resolution or by issuing a statement in a
20 publicly noticed open meeting, that it has exhausted all possible
21 alternatives to averaging and is unable to achieve the 20 to 1
22 pupil-teacher ratio in a way that is educationally acceptable.

23 52129.2. The application of a school district for funding to
24 implement a program pursuant to this chapter shall include
25 certification of each of the following items as a condition to
26 receiving any apportionment under Section 52129.5:

27 (a) Certification of the number of classes in each eligible grade
28 level selected for a class size reduction flexibility alternative
29 apportionment pursuant to this chapter.

30 (b) Certification of pupil enrollment, as of October of the
31 previous calendar year, in each class selected for class size
32 reduction pursuant to subdivision (a). Classes comprised of
33 special education pupils enrolled in special day classes on a
34 full-time basis shall not be included in this program. School
35 districts may not claim funding pursuant to this chapter for any
36 pupil who is enrolled in independent study pursuant to Article 5.5
37 (commencing with Section 51745) of Chapter 5 of Part 28 for the
38 full regular schoolday nor may school districts claim funding
39 pursuant to this chapter for any pupil for any portion of the full
40 regular day that the pupil is enrolled in independent study

1 pursuant to that article. Charter schools may not claim funding
2 pursuant to this chapter for any pupil who is enrolled in a program
3 of home study for the full regular schoolday nor may charter
4 schools claim funding for any pupil for any portion of the full
5 regular schoolday that the pupil is enrolled in a program of home
6 study.

7 (c) (1) Certification that a fully and properly credentialed
8 teacher, as defined pursuant to paragraph (4), has been hired by
9 the school district and is providing direct instructional services to
10 each class selected for class size reduction pursuant to this chapter
11 and that there are not more than an annual average of 22 pupils
12 per participating class and not more than a schoolsite average of
13 20 pupils per participating class.

14 (2) In a school district that applies for funding pursuant to
15 subdivision (e) of Section 52129.1, certification of all of the
16 following:

17 (A) A fully and properly credentialed teacher, as defined
18 pursuant to paragraph (4), has been hired by the school district
19 and is providing direct instructional services to each class selected
20 for class size reduction pursuant to this chapter.

21 (B) The ratio of pupils to teacher does not exceed the 20 to 1
22 standard ratio by more than two pupils.

23 (3) For the purposes of this subdivision, “class” shall be
24 defined in the same manner as provided in the regulations adopted
25 by the Superintendent of Public Instruction prior to July 1, 1996,
26 pursuant to Sections 41376 and 41378 (subdivision (a) of Section
27 15103 of Title 5 of the California Code of Regulations).

28 (4) For purposes of this section, “fully and properly
29 credentialed teacher” means a teacher who holds a preliminary or
30 professional clear credential appropriate to the grade level or
31 subject matter of instruction.

32 (d) Certification that the school district has a staff development
33 program pursuant to Section 52127 and that the program has been
34 approved by the governing board of the school district.

35 (e) Certification that the school district will collect and
36 maintain any data required by the Superintendent of Public
37 Instruction that will aid in the evaluation of the Class Size
38 Reduction Flexibility Alternative Program. The data shall include,
39 but is not limited to, individual test scores or other records of pupil
40 achievement. Any data collected shall be protected in a manner

1 *that will not permit the personal identification of any pupil or*
2 *parent.*

3 *(f) Commencing with the 2003–04 school year and each school*
4 *year thereafter, certification that each class reduced pursuant to*
5 *this chapter is housed in either a separate, self-contained*
6 *classroom or that the space of each class for each grade level at*
7 *that schoolsite provides a square footage per pupil enrolled in each*
8 *class that is not less than the average square footage per pupil*
9 *enrolled in those grade levels at that schoolsite in the 2002–03*
10 *school year.*

11 *52129.3. (a) A school district that implements a class size*
12 *reduction flexibility alternative program pursuant to this chapter*
13 *is subject to this section.*

14 *(b) A school district may establish a program to reduce class*
15 *size in kindergarten and grades 1 to 3, inclusive, and that program*
16 *shall be implemented at each schoolsite according to the following*
17 *priorities:*

18 *(1) If only one grade level is reduced at a schoolsite, the grade*
19 *level shall be grade 1.*

20 *(2) If only two grade levels are reduced at a schoolsite, the*
21 *grade levels shall be grades 1 and 2.*

22 *(3) If three grade levels are reduced at a schoolsite, those grade*
23 *levels shall be kindergarten and grades 1 and 2 or grades 1 to 3,*
24 *inclusive. Priority shall be given to the reduction of class sizes in*
25 *grades 1 and 2 before the class sizes of kindergarten or grade 3 are*
26 *reduced.*

27 *(4) If four grade levels are reduced at a schoolsite, those grade*
28 *levels shall be kindergarten and grades 1 to 3, inclusive. First*
29 *priority shall be given to the reduction of class sizes in grades 1 and*
30 *2, second priority shall be given to the reduction of class size in*
31 *kindergarten and grade 3. This paragraph shall be operative only*
32 *in those fiscal years for which funds are appropriated expressly for*
33 *the purposes of this paragraph.*

34 *(c) It is the intent of the Legislature to continue to permit the use*
35 *of combination classes of more than one grade level to the extent*
36 *that school districts are otherwise permitted to use that*
37 *instructional strategy. However, any school district that uses a*
38 *combination class in any class for which funding is received*
39 *pursuant to this chapter may not claim funding pursuant to this*
40 *chapter if the total number of pupils in the combination class,*

1 regardless of grade level, exceeds an annual average of 22 pupils
2 per certificated teacher assigned to provide direct instructional
3 services.

4 (d) The governing board of a school district shall certify to the
5 Superintendent of Public Instruction that it has met the
6 requirements of this section in implementing its Class Size
7 Reduction Flexibility Alternative Program. If a school district
8 receives funding pursuant to this chapter but has not implemented
9 its Class Size Reduction Flexibility Alternative Program for all
10 grades and classes for which it received funding pursuant to this
11 chapter, the Superintendent of Public Instruction shall notify the
12 Controller and the school district in writing and the Controller
13 shall deduct from the school district's next principal
14 apportionment or apportionments of state funds to the district,
15 other than basic aid apportionments required by Section 6 of
16 Article IX of the California Constitution, one of the following:

17 (1) An amount equal to the amount received by the school
18 district pursuant to this chapter for each participating class that
19 failed to maintain an annual average class size of 22 or fewer
20 pupils.

21 (2) An amount equal to the amount received by the school
22 district under this chapter for each participating schoolsite that
23 failed to maintain an annual average class size of 20 or fewer
24 pupils per participating classroom.

25 52129.4. (a) The Controller shall include instructions,
26 appropriate to the enforcement of subdivision (d) of Section
27 52129.3, in the audit guide or supplement to the audit guide
28 required by subdivision (a) of Section 14052.1. These instructions
29 shall include, but are not limited to, procedures for determining the
30 annual average class enrollment of individual classes and
31 schoolsites for classes for which funding is provided to a school
32 district pursuant to this chapter. The procedures to determine
33 average class enrollment shall include criteria for employing
34 sampling which will satisfy both of the following:

35 (1) The number of classes to be reviewed shall be based on
36 auditor judgment, but the selection of classes shall be done
37 randomly.

38 (2) For each class selected, the sample shall include at least 15
39 days randomly selected from all instructional days which occurred

1 *between the first day of instruction and April 15, inclusive, of the*
2 *school year.*

3 *(b) (1) If the auditor concludes from the sample, based on his*
4 *or her professional judgment, that the average class size for the*
5 *sampled classes is more than 22.4 or that the average class size for*
6 *a schoolsite represented in the sample is more than 20.4 when*
7 *averaged over a period from the first day of instruction to April 15*
8 *of the school year, the auditor shall conduct a more in-depth*
9 *review. The in-depth review shall be either of the following:*

10 *(A) A review of all instructional days for all classes for which*
11 *a district has requested funding pursuant to Section 52129.5.*

12 *(B) A randomly selected sample of all classes and instructional*
13 *days of sufficient size and designed in such a manner that the class*
14 *size for each class, when averaged over the period from the first*
15 *day of instruction to April 15, that the auditor can conclude that*
16 *the average daily class size does not exceed 22 with an error of no*
17 *more than 0.4 rate at 95 percent degree of confidence.*

18 *(2) The school district shall make the determination as to which*
19 *of the two in-depth review methods set forth in paragraph (1) of*
20 *subdivision (b) shall be used.*

21 *52129.5. The amount of funding that each school district*
22 *implementing a Class Size Reduction Flexibility Alternative*
23 *Program pursuant to this chapter is eligible to receive shall be*
24 *computed as follows:*

25 *(a) If a school district applies to participate in Option One,*
26 *pursuant to subparagraph (A) of paragraph (2) of subdivision (b)*
27 *of Section 52129.1, the Superintendent of Public Instruction shall*
28 *apportion to the applicant school district an amount equal to eight*
29 *hundred dollars (\$800) for each pupil actually enrolled in the*
30 *classes in which the school district implements the program,*
31 *except that the maximum number of pupils for which a school*
32 *district may claim funding for any class shall not exceed 20. The*
33 *number of pupils claimed pursuant to this subdivision shall be*
34 *pupils actually enrolled in classes participating in the Class Size*
35 *Reduction Flexibility Alternative Program and shall not be based*
36 *on the average size of the classes for any grade levels for which*
37 *funding is claimed.*

38 *(b) If a school district applies to participate in Option Two,*
39 *pursuant to subparagraph (B) of paragraph (2) of subdivision (b)*
40 *of Section 52129.1, the Superintendent of Public Instruction shall*

1 apportion to the applicant school district an amount equal to four
2 hundred dollars (\$400) per pupil actually enrolled in the classes
3 in which the school district implements the program, except that
4 the number of pupils in any class for which a school district may
5 claim funding for the instructional minutes offered shall not exceed
6 20. The number of pupils claimed pursuant to this subdivision shall
7 be pupils actually enrolled in classes participating in the Class
8 Size Reduction Flexibility Alternative Program and shall not be
9 based on the average size of the classes for any grade levels for
10 which funding is claimed.

11 (c) The per pupil amount set forth in subdivisions (a) and (b)
12 shall be increased annually for inflation by the percentage change
13 determined pursuant to subdivision (b) of Section 42238.1.

14 (d) Except for the advance apportionment, the Superintendent
15 of Public Instruction shall apportion funds to a school district only
16 after certification that its Class Size Reduction Flexibility
17 Alternative Program has been implemented for that fiscal year.

18 (e) The Superintendent of Public Instruction shall apportion
19 funds for this program in the following manner:

20 (1) An advance apportionment shall be made following
21 passage of the annual Budget Act. This apportionment shall be
22 provided to all school districts that participated in the program in
23 the prior fiscal year, and shall be limited to 25 percent of the
24 amount computed by multiplying the appropriate per pupil
25 stipends times the actual enrollment in each participating class in
26 the prior fiscal year, as reported by the district pursuant to
27 subdivision (d) of Section 52129.3.

28 (2) Each year an apportionment to all applicants shall be made
29 following receipt of applications submitted pursuant to Section
30 52129.2, adjusted as necessary by the amount received pursuant
31 to paragraph (1). If a school district that participated in this
32 program in the prior fiscal year fails to submit an application, all
33 funds apportioned to that school district pursuant to paragraph (1)
34 shall be deducted from the district's next monthly principal
35 apportionment payment.

36 (3) A final adjustment to the amounts paid pursuant to
37 paragraph (2) shall be made following receipt of the actual
38 enrollment in each participating class, to be reported by each
39 school district pursuant to subdivision (d) of Section 52129.3.

(f) Irrespective of the amount that a school district receives pursuant to subdivision (a) on the basis of the application it makes under Section 52129.2, that district shall not retain any funds it receives for any class that does not actually meet all of the requirements of the Class Size Reduction Flexibility Alternative Program.

(g) It is the intent of the Legislature that the total statewide amount computed for the purposes of this chapter pursuant to this section be appropriated to the Superintendent of Public Instruction in the annual Budget Act.

read:

~~62.5. (a) The Workers' Compensation Administration Revolving Fund is hereby created as a special account in the State Treasury. Money in the fund may be expended by the department, upon appropriation by the Legislature, for the administration of the workers' compensation program set forth in this division and Division 4 (commencing with Section 3200), other than the activities financed pursuant to Section 3702.5, and may not be used for any other purpose.~~

~~(b) The fund shall consist of assessments made pursuant to this section. One hundred percent of program costs shall be supported by employer assessments.~~

~~(c) Assessments shall be levied by the director upon all employers as defined in Section 3300. The total amount of the assessment shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall promulgate reasonable rules and regulations governing the manner of collection of the assessment. The rules shall require the assessment to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the assessment to be paid by insured employers to be expressed as a percentage of premium. In no event shall the assessment paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission.~~

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